

United States Department of Justice
Office of the United States Trustee
110 N. College Avenue, Suite 300
Tyler, Texas 75202
(903) 590-1450

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE

George D Wigington
2451 Elm Grove Road
Wylie, TX 75098
COLLIN-TX
(469) 235-1482
SSN / ITIN: xxx-xx-4787

Case No. 11-41092

Teresa L Wigington
2451 Elm Grove Road
Wylie, TX 75098
COLLIN-TX
SSN / ITIN: xxx-xx-0949

Chapter 11

Debtors

**UNITED STATES TRUSTEE'S MOTION TO DISMISS;
WITH WAIVER OF 30-DAY HEARING REQUIREMENT**

PLEASE NOTE THAT THE COURT HAS SET THIS MOTION FOR HEARING:

HEARING: MONDAY, DECEMBER 16, 2013, AT 1:30 P.M.

U.S. Bankruptcy Court
660 N. Central Expressway, 3rd Floor
Plano, Texas 75704

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE PRESIDING:

William T. Neary, the United States Trustee for Region 6 (“U.S. Trustee”) hereby files in the above-numbered and captioned bankruptcy case (“Case”) his Motion to Dismiss (“Motion”) and respectfully states in support thereof:

Jurisdiction and Timeliness

1. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1334, 157(a), and the standing order of reference. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (O). The predicate for the relief requested herein is Bankruptcy Code section 1112(b).

Background

2. On April 4, 2011, George and Teresa Wigington (“Debtors”) initiated the Case in the United States Bankruptcy Court, Eastern District of Texas, Sherman Division by filing a voluntary petition for relief under chapter 13 of title 11 and subsequently converted to chapter 11 on April 12, 2012.

3. On June 4, 2013, the Court confirmed the Debtors’ plan of reorganization.

4. As of the filing of this Motion, November 1, 2013, the Debtors are delinquent in filing their June 30, 2013, and September 30, 2013, quarterly post-confirmation operating reports and are also delinquent in paying quarterly fees.

5. The U.S. Trustee has informally requested Debtors to file their required reports and to pay their fees, without success.

Applicable Law and Argument

6. Section 1112 (b) provides,

. . . absent unusual circumstances specifically identified by the court that establish that the requested conversion or dismissal is not in the best interests of creditors and the estate, the court shall convert a case under this chapter to a case under

chapter 7 or dismiss a case under this chapter, whichever is in the best interests of creditors and the estate, if the movant establishes cause.

7. Cause exists to convert or dismiss this bankruptcy case for failure to satisfy timely the reporting requirements established by the Bankruptcy Code, 11 U.S.C. § 1112(b)(4)(F), and failure to pay any fees or charges required under chapter 123 of title 28. 11 U.S.C. § 1112(b)(4)(K).

8. Under section 1112(b), the Court determines whether dismissal or conversion is in “the best interest of creditors.” Under the facts of this Case, the Debtor does not appear able to effectively use chapter 11 for the benefit of creditors, so the Case should be dismissed. Further, on dismissal, sufficient “cause” exists to dismiss the Case with prejudice to re-filing for 180 days. 11 U.S.C. § 349

WHEREFORE, the U.S. Trustee respectfully requests that the Court issue an order (a) dismissing the Case with prejudice to re filing, (b) requiring payment of accrued quarterly fees; and (c) granting such other further appropriate relief.

Dated: November 1, 2013

Respectfully submitted,

William T. Neary
United States Trustee
Region 6

By: /s/ Marc Salitore
Timothy W. O’Neal
Asst. U.S. Trustee, SBOT 15283350
Marcus F. Salitore
Trial Attorney, SBOT 24029822
110 N. College Avenue, Suite 300
Tyler, Texas 75702
(903) 590-1450; Fax (903) 590-1461

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was served on the following listed persons and those notified through the court's electronic notification system as permitted by Appendix 5005 III E to the Local Rules of the U.S. Bankruptcy Court for the Eastern District of Texas, or by first class United States Mail, postage prepaid, no later than November 4, 2013.

/s/ Marc Salitore

Marcus F. Salitore

Debtors:

George & Teresa Wigington
2451 Elm Grove Road
Wylie, TX 75098

Debtors' Attorney:

N/A

Notices of Appearance:

Mark Stromburg
Two Lincoln Center
5420 LBJ Freeway, Ste 300
Dallas, TX 75240

Michael Reed
McCreary Veselka et al
PO box 1269
Round Rock, TX 78680

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP
15000 SURVEYOR BLVD SUITE 100
ADDISON, TX 75001

LINEBARGER GOGGAN BLAIR & SAMPSON, LLP
2323 BRYAN STREET SUITE 1600
DALLAS, TX 75201

David McCall, Esq.
GAY, McCALL, ISAACKS, GORDON & ROBERTS, P.C.
777 East 15th Street
Plano, Texas 75074

GE Money Bank
c/o Recovery Management Systems Corp.
25 SE 2nd Avenue, Suite 1120
Miami, FL 33131-1605
Attn: Ramesh Singh

WILLIAM RILEY NIX
717 NORTH CROCKETT STREET
SHERMAN, TEXAS 75090

Matrix Follows:

Label Matrix for local noticing
0540-4
Case 13-40360
Eastern District of Texas
Sherman
Fri Nov 1 14:35:25 CDT 2013

American National Bank of Texas
c/o Mark Stromberg
Stromberg Stock
Two Lincoln Center
5420 LBJ Freeway, Suite 300
Dallas, TX 75240-6271

Denton County
c/o Lee Gordon
P O Box 1269
Round Rock, TX 78680-1269

Denton County
c/o Lee Gordon
P.O. Box 1269
Round Rock, Texas 78680-1269

First United Bank & Trust Co
c/o Riley Nix
717 N Crocket Street
Sherman TX 75090-4979

First United Bank & Trust Co.
1400 West Main
Durant, OK 74701-4906

(p)MICHAEL REED OR LEE GORDON
PO BOX 1269
ROUND ROCK TX 78680-1269

Internal Revenue Service
P. O. box 7346
Philadelphia, PA 19101-7346

Gregory W. Mitchell
8140 Walnut Hill Lane
Suite 301
Dallas, TX 75231-4328

William Riley Nix
Nix & Winegeart, P.C.
717 North Crockett St.
Sherman, TX 75090-4979

James G. Rea
McGuire, Craddock & Strother, P.C.
2501 N. Harwood, Suite 1800
Dallas, TX 75201-1613

U.S. Attorney General
Department of Justice
Main Justice Building
10th & Constitution Ave., NW
Washington, DC 20530-0001

US Trustee
Office of the U.S. Trustee
110 N. College Ave.
Suite 300
Tyler, TX 75702-7231

John M. Vardeman
UST Office
110 N. College St., Suite 300
Tyler, TX 75702-7231

WW Grainger Inc
Special Collections Dpt
7300 N. Melvina Ave
Niles, IL 60714-3906

WW Grainger, Inc
Special Collection Dpt (MES17871076014)
7300 N Melvina
Niles, IL 60714-3906

George Dale Wigington
2451 Elm Grove Rd.
Wylie, TX 75098-6239

George Teresa Wigington
2451 Elm Grove Road
Wylie, TX 75098-6239

Wigington, George Dale
2451 Elm Grove Road
Wylie TX 75098-6239

Wigington, George Teresa
2451 Elm Grove Road
Wylie TX 75098-6239

David L. Woods
McGuire, Craddock & Strother, P.C.
2501 N. Harwood, Suite 1800
Dallas, TX 75201-1613

Wylie Investment Group
2451 Elm Grove Road
Wylie, TX 75098-6239

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Lee Gordon
McCreary Veselka Bragg & Allen, PC
PO Box 1269
Round Rock, TX 78665

End of Label Matrix
Mailable recipients 21
Bypassed recipients 0
Total 21